

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 4 and 10-18 have been cancelled. Claims 1-3 and 5-9 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

CLAIM FOR PRIORITY

It is gratefully acknowledged that the Examiner has recognized the Applicant's claim for foreign priority. In view of the fact that the Applicant's claim for foreign priority has been perfected, no additional action is required from the Applicants at this time.

DRAWINGS

It is gratefully acknowledged that the Examiner has approved the Formal Drawings submitted by the Applicants. The drawings comply with the requirements of the USPTO. No further action is necessary.

ACKNOWLEDGEMENT OF INFORMATION DISCLOSURE STATEMENT

The Examiner has acknowledged the Information Disclosure Statement filed on March 30, 2001. An initialed copy of the PTO-1449 has been received from the Examiner. No further action is necessary at this time.

REJECTION UNDER 35 USC 103

Claims 1-3 stand rejected under 35 USC 103 as being unpatentable over Morinaka et al, US 5,025,883, in view of Clare et al, US 6,030,018. Claims 4 and 5 stand rejected under 35 USC 103 as being unpatentable over Morinaka et al, US 5,025,883, in view of Clare et al, US 6,030,018 and further in view of Hesker, US 6,351,242. Claims 6 and 7 stand rejected under 35 USC 103 as being unpatentable over Morinaka et al, US 5,025,883, in view of Clare et al, US 6,030,018, in view of Yamaura et al, US 6,292,107 and further in view of Kusunoki, US 5,763,957. Claims 8-13 and 15-17 stand rejected under 35 USC 103 as being unpatentable over Kusunoki, US 5,763,957 in view of Hesker, US 6,351,242. Claim 14 stands rejected under 35 USC 103 as being unpatentable over Kusunoki, US 5,763,957 in view of Hesker, US 6,351,242 and further in view of Tanable, US 4,788,542. Claims 18 stands rejected under 35 USC 103 as being unpatentable over Kusunoki, US 5,763,957 in view of Sonder, US 5,307,048. These rejections are respectfully traversed.

Although not conceding the appropriateness of the Examiner's rejection, claims 4 and 10-18 have been cancelled. The Examiner's rejections of claims 4 and 10-18 based on certain prior art has been obviated.

It is respectfully submitted that claims 1-3 and 5-9 set forth a combination of elements wherein a remote control trunk assembly is provided for a saddle type vehicle wherein a radio receiving trunk assembly is mountable on a rear portion of a

vehicle body and the radio receiving trunk assembly includes a projection formed outside on top of the rear trunk with the radio signal receiving unit being disposed inside the projection and the projection is positioned at approximately the center portion of the rear trunk.

As acknowledged by the Examiner on page 2, the fifth paragraph of his Office Action, Morinaka et al is "silent on teaching the trunk assembly is remote controlled and having a radio signal receiving unit."

The Examiner relied on the Clare et al patent for a teaching of a remotely controlled lock. It is respectfully submitted that the Clare et al patent is directed to a truck side panel that may be opened by use of mechanical latches or by use of electrical solenoids. As set forth in col. 11, lines 24-50, the electrical solenoids require electric leads as illustrated in Fig. 12 of the Clare et al patent.

It is respectfully submitted that the Clare et al patent is not analogous art according to M.P.E.P. § 2141.01(a) which states the following:

"The Examiner must determine what is 'analogous prior art' for the purpose of analyzing the obviousness of the subject matter at issue. In order to rely on a reference as a basis for rejection of an Applicant's invention, the reference must either be in the field of Applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. In re Oetiker, 977 F.2d 1443, 24 USPQ 2d 1443, 1445 (Fed. Cir. 1992)."

It is respectfully submitted that the Clare et al patent is not directed to analogous art because one of ordinary skill in this art would not be lead to use a side panel for a truck to modify the trunk portion of the motorcycle disclosed in the Morinaka et al patent.

Under the provisions of 35 U.S.C. § 103, the Examiner is not permitted to selectively extract a single concept of utilizing solenoids while ignoring the teaching that motivated Clare et al to develop his invention relating to providing hinged side panels for a truck. The Examiner's rejection is based on a hindsight reconstruction of the prior art with the Examiner relying on the Applicant's own disclosure for providing the motivation to make the modification. Such a rejection is not sanctioned by the provisions of 35 USC 103.

Similarly, the Hesker patent is merely directed to the positioning of an antenna relative to a passenger car. The antenna disclosed by Hesker is actually installed below the outer wall of the car body. See, Hesker, col. 4, lines 24-40.

Again, it is respectfully submitted that the Hesker patent is directed to non-analogous art. In addition, the present invention is directed to a combination of elements wherein the radio receiving trunk assembly includes a projection formed outside on top of the rear trunk. The Hesker patent teaches the positioning of the antenna below the outer wall of a car body and would not permit one of ordinary skill in the art to modify the Morinaka et al patent as suggested by the Examiner.

The Yamaura et al and Kusunoki patent were merely relied upon for teachings of a lock mechanism for a trunk and a switch for detecting whether a trunk lid is open or closed, respectively. It is respectfully submitted that the Yamaura et al and the Kusunoki patents are directed to non-analogous art. In addition, the teachings disclosed in the Yamaura et al and Kusunoki patents do not overcome the deficiencies of the primary references as discussed above.

In view of the above remarks, it is respectfully submitted that the Applicants have overcome the Examiner's rejections based on 35 USC 103. Claims 1-3 and 5-9 are now believed to be in condition for allowance. An early notice of allowance is respectfully requested.

NO PROSECUTION HISTORY ESTOPPEL

The subject matter of claim 4 has been added to claims 1 and 8. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1-3 and 5-9 in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It

is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

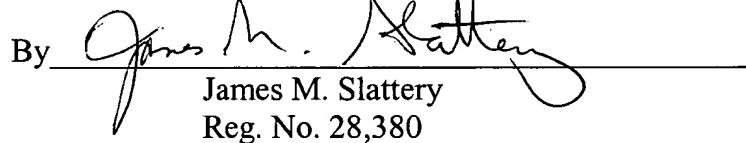
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000 in the Washington, D.C. area.

A prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 
James M. Slattery
Reg. No. 28,380

JMS/mmi

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

0505-0798P